

AMENDED IN SENATE JUNE 17, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 519

Introduced by Assembly Member Duvall

February 24, 2009

An act to add Section 22651.07 to *amend Section 3068.1 of the Civil Code, and to the Vehicle Code*, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as amended, Duvall. ~~California Consumer Bill of Rights for Towed Vehicles.~~ *Vehicles: Towing Fees and Access Notice.*

(1) Existing law provides that every person has a possessory lien for the compensation to which he or she is legally entitled for the towing, storage, or labor associated with recovery or load salvage of any vehicle that has been authorized to be removed by a public agency, a private property owner, or a lessee, operator, or registered owner of the vehicle. Existing law requires that a person requesting release of the vehicle present documentation establishing that he or she is entitled to possession of the vehicle and authorizes an inspection of the vehicle by the legal owner or lessor, or his or her agent within a specified time period after receiving a written demand for the inspection.

This bill would define "documentation" and "agent" for these purposes and would also provide that a lienholder that releases a vehicle in compliance with specified provisions of law or a vehicle authorized for release by law enforcement or other governmental agency, has no

civil liability of any kind for any claim or dispute arising out of the release of the vehicle.

(1)

(2) Existing law authorizes a peace officer, or a regularly employed and salaried public employee, who is engaged in directing traffic or enforcing parking laws and regulations, to remove a vehicle located within the territorial limits in which the officer or employee is allowed to act under specified circumstances, including, among other things, when a vehicle is illegally parked and blocks the movement of a legally parked vehicle. A violation of this provision is an infraction.

This bill would establish, and require a person or towing company that charges for towing and storage to post a specified copy of, ~~the “California Consumer Bill of Rights for Towed Vehicles,”~~ “*Towing Fees and Access Notice*” that contains specific information regarding a vehicle owner’s rights and responsibilities if his or her vehicle is towed, and would require, among other things, that it be posted in the office area of the storage facility in plain view to the public, and would also require that copies be made readily available to the public.

The bill would require a person or towing company that charges for towing and storage to provide, upon request, a copy of the ~~California Consumer Bill of Rights for Towed Vehicles~~ *Towing Fees and Access Notice* to any owner or operator of a towed or stored vehicle and would require the person or towing company to provide a ~~separate and distinct~~ notice on an itemized invoice for any towing and storage charges.

By creating a new crime, the bill would impose a state-mandated local program.

(2)

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3068.1 of the Civil Code is amended to
2 read:

1 3068.1. (a) (1) Every person has a lien dependent upon
2 possession for the compensation to which the person is legally
3 entitled for towing, storage, or labor associated with recovery or
4 load salvage of any vehicle subject to registration that has been
5 authorized to be removed by a public agency, a private property
6 owner pursuant to Section 22658 of the Vehicle Code, or a lessee,
7 operator, or registered owner of the vehicle. The lien is deemed
8 to arise on the date of possession of the vehicle. Possession is
9 deemed to arise when the vehicle is removed and is in transit, or
10 when vehicle recovery operations or load salvage operations have
11 begun. A person seeking to enforce a lien for the storage and
12 safekeeping of a vehicle shall impose no charge exceeding that
13 for one day of storage if, 24 hours or less after the vehicle is placed
14 in storage, the vehicle is released. If the release is made more than
15 24 hours after the vehicle is placed in storage, charges may be
16 imposed on a full, calendar-day basis for each day, or part thereof,
17 that the vehicle is in storage. If a request to release the vehicle is
18 made and the appropriate fees are tendered and documentation
19 establishing that the person requesting release is entitled to
20 possession of the vehicle, or is the owner's insurance
21 representative, is presented within the initial 24 hours of storage,
22 and the storage facility fails to comply with the request to release
23 the vehicle or is not open for business during normal business
24 hours, then only one day's charge may be required to be paid until
25 after the first business day. A "business day" is any day in which
26 the lienholder is open for business to the public for at least eight
27 hours. If the request is made more than 24 hours after the vehicle
28 is placed in storage, charges may be imposed on a full-calendar
29 day basis for each day, or part thereof, that the vehicle is in storage.

30 (2) *"Documentation" that would entitle a person to possession*
31 *of the vehicle includes, but is not limited to, a certificate of*
32 *ownership, vehicle registration, information in the possession of*
33 *the lienholder including ownership information obtained from the*
34 *Department of Motor Vehicles or a facially valid registration found*
35 *within the vehicle, or a notarized letter or statement from the legal*
36 *or registered owner providing authorization to release to a*
37 *particular person with a government-issued photographic*
38 *identification card. Documentation that establishes that a person*
39 *is the owner's insurance representative includes, but is not limited*
40 *to, a faxed letter or other letter from the owner's insurance*

1 *company. A lienholder is not responsible for determining the*
2 *authenticity of documentation that establishes either a person's*
3 *entitlement to possession or that a person is the owner's insurance*
4 *representative.*

5 (b) If the vehicle has been determined to have a value not
6 exceeding four thousand dollars (\$4,000), the lien shall be satisfied
7 pursuant to Section 3072. Lien sale proceedings pursuant to Section
8 3072 shall commence within 15 days of the date the lien arises.
9 No storage shall accrue beyond the 15-day period unless lien sale
10 proceedings pursuant to Section 3072 have commenced. The
11 storage lien may be for a period not exceeding 60 days if a
12 completed notice of a pending lien sale form has been filed
13 pursuant to Section 3072 within 15 days after the lien arises.
14 Notwithstanding this 60-day limitation, the storage lien may be
15 for a period not exceeding 120 days if any one of the following
16 occurs:

17 (1) A Declaration of Opposition is filed with the department
18 pursuant to Section 3072.

19 (2) The vehicle has an out-of-state registration.

20 (3) The vehicle identification number was altered or removed.

21 (4) A person who has an interest in the vehicle becomes known
22 to the lienholder after the lienholder has complied with subdivision
23 (b) of Section 3072.

24 (c) If the vehicle has been determined to have a value exceeding
25 four thousand dollars (\$4,000) pursuant to Section 22670 of the
26 Vehicle Code, the lien shall be satisfied pursuant to Section 3071.
27 The storage lien may be for a period not exceeding 120 days if an
28 application for an authorization to conduct a lien sale has been
29 filed pursuant to Section 3071.

30 (d) (1) Any lien under this section shall be extinguished, and
31 no lien sale shall be conducted, if any one of the following occurs:

32 ~~(1)~~

33 (A) The lienholder, after written demand to inspect the vehicle
34 made by either personal service or certified mail with return receipt
35 requested by the legal owner or the lessor, fails to permit the
36 inspection by the legal owner or lessor, or his or her agent, within
37 a period of time of at least 24 hours, but not to exceed 72 hours,
38 after the receipt of that written demand, during the normal business
39 hours of the lienholder. The legal owner or lessor shall comply

1 with inspection and vehicle release policies of the impounding
2 public agency.

3 ~~(2)~~

4 (B) The amount claimed for storage exceeds the posted rates.

5 (2) “Agent” includes, but is not limited to, any person
6 designated to inspect the vehicle by the request of the legal owner
7 or lessor, in writing or by telephone, to the lienholder. A lienholder
8 is not responsible for determining the authenticity of documentation
9 establishing a person’s agency for the purposes of inspection of
10 a vehicle.

11 (e) A lienholder that releases a vehicle in compliance with
12 Section 14602.6, 14602.7, 14602.8, 21100.4, 22658, or 23109.2
13 of the Vehicle Code or a vehicle authorized for release by law
14 enforcement or other governmental agency, has no civil liability
15 of any kind for any claim or dispute arising out of the release of
16 the vehicle.

17 **SECTION 1.**

18 SEC. 2. Section 22651.07 is added to the Vehicle Code, to
19 read:

20 22651.07. (a) A person or towing company that charges for
21 towing and storage shall do all of the following:

22 (1) ~~Post in~~ Post in the office area of the storage facility, in plain
23 view to the public, the ~~California Consumer Bill of Rights for~~
24 ~~Towed Vehicles Towing Fees and Access Notice~~ and have copies
25 readily available to the public.

26 (2) Provide, upon request, a copy of the ~~California Consumer~~
27 ~~Bill of Rights for Towed Vehicles Towing Fees and Access Notice~~
28 to any owner or operator of a towed or stored vehicle.

29 (3) Provide a ~~separate and~~ distinct notice on an itemized invoice
30 for any towing and storage charges stating: “Upon request, you
31 are entitled to receive a copy of the ~~California Consumer Bill of~~
32 ~~Rights for Towed Vehicles.~~” *Towing Fees and Access Notice.*”
33 This notice shall be contained within a bordered text box, printed
34 in no less than 10-point type.

35 (b) Prior to receiving payment for any towing, recovery, or
36 storage-related fees, a person or towing company that charges for
37 towing and storage shall provide a ~~clear, itemized, and detailed an~~
38 *itemized* invoice of actual charges to the vehicle owner or his or
39 her agent.

(c) Prior to paying any towing, recovery, or storage-related fees, a vehicle owner or his or her agent shall have the right to all of the following:

(1) Receive his or her personal property, at no charge, during normal business hours. *Normal business hours are Monday through Friday from 8:00 a.m. to 5:00 p.m., inclusive, except state holidays.*

(2) Retrieve his or her vehicle during the first 72 hours of storage and not pay a lien fee.

(3) Request a copy of the ~~California Consumer Bill of Rights for Towed Vehicles~~ *Towing Fees and Access Notice*.

(4) ~~Pay by cash or credit card. Be permitted to pay by cash or a valid bank credit card. Credit charges for towing and storage services shall comply with Section 1748.1 of the Civil Code. Law enforcement agencies may include the costs of providing for payment by credit when agreeing with a towing or storage provider on rates.~~

(d) The ~~California Consumer Bill of Rights for Towed Vehicles~~ *Towing Fees and Access Notice* shall be a separate standardized document and plainly printed in no less than 10-point type. A person or towing company may distribute the form using its own letterhead, but the language of the ~~California Consumer Bill of Rights for Towed Vehicles~~ *Towing Fees and Access Notice* shall read as follows:

<u>California Consumer Bill of Rights for Towed Vehicles Towing Fees and Access Notice</u>	
<u>Who can tow your vehicle?</u>	
Law enforcement officials can order “public tows,” when vehicles:	
• Have been involved in an accident.	
• Are being driven by an unlicensed driver.	
• Have unpaid parking tickets.	
• Have registrations expired in excess of 6 months.	
• Are disabled (broken down).	
• Are parked in tow-away or other no-parking zones.	
• Block private driveways.	
• Are abandoned or threaten public health or safety.	

1	● The driver has been arrested for or committed a criminal act.
2	(Additional circumstances may apply.)
3	
4	A private property owner or his or her agent by written agreement with a towing
5	company can order a “private property tow” if a vehicle is illegally or
6	improperly parked on private property. (The towing company may not act as
7	the agent for the private property owner and authorize the tow.)
8	The vehicle’s owner or driver can make arrangements directly with a towing
9	company to tow his or her vehicle. This is commonly referred to as an “owner’s
10	request tow.”
11	<i>Note: The following information is intended to serve as a general summary of</i>
12	<i>some of the laws that provide vehicle owners certain rights when their vehicle</i>
13	<i>is towed. It is not intended to summarize all of the laws that may be applicable</i>
14	<i>nor is it intended to fully and completely state the entire law in any area listed.</i>
15	<i>Please review the applicable California code for a definitive statement of the</i>
16	<i>law in your particular situation.</i>
17	
18	<u>How much can a towing company charge?</u>
19	
20	Rates for public tows and storage are generally established by <i>an agreement</i>
21	<i>between</i> the law enforcement agency requesting the tow <i>and the towing</i>
22	<i>company</i> (to confirm the approved rates, you may contact the law enforcement
23	agency that initiated the tow; additionally, these rates are required to be posted
24	at the storage facility).
25	
26	Rates for private property tows and storage can not <i>cannot</i> exceed the approved
27	rates for the law enforcement agency that has primary jurisdiction for the
28	property from which the vehicle was removed or the towing company’s
29	approved CHP rate.
30	Rates for owner’s request tows and storage are generally established by mutual
31	agreement between the requestor and the towing company, but may be dictated
32	by agreements established between the requestor’s motor club and motor club
33	service provider.
34	
35	<u>If my vehicle was towed how can I find it?</u>
36	
37	Call your local law enforcement agency. Vehicles placed in storage after either
38	a public or private tow are reported to law enforcement.
39	

1	Where can you complain about a towing company?
2	
3	Public tows: The law enforcement agency initiating the tow.
4	Private property tows: The local law enforcement agency or District Attorney's
5	or City Attorney's office in your area. (The towing company is required to
6	provide you with the agency's name and telephone number.)
7	<i>For public tows: Contact the law enforcement agency initiating the tow.</i>
8	
9	Your rights if your vehicle is towed:
10	
11	If the owner or driver is present prior to the vehicle being towed the tow truck
12	operator must provide the vehicle owner or driver with the following
13	information:
14	<ul style="list-style-type: none"> • A list of all towing and storage-related fees.
15	<ul style="list-style-type: none"> • A signed authorization of services containing the date and time of the tow;
16	location from which the vehicle will be towed; the location where the vehicle
17	will be towed or stored; the vehicle operator's or vehicle owner's name and
18	address (if obtainable); the odometer reading (if obtainable) and the name,
19	address, and telephone number of the towing company and the storage facility
20	if different from the towing company.
21	<i>Generally, prior to paying any towing and storage-related fees you have the</i>
22	<i>right to:</i>
23	<ul style="list-style-type: none"> • <i>Receive a clear and an itemized invoice of actual charges.</i>
24	<ul style="list-style-type: none"> • <i>Receive your personal property, at no charge, during normal business hours.</i>
25	<ul style="list-style-type: none"> • <i>Retrieve your vehicle during the first 72 hours of storage and not pay a lien</i>
26	<i>fee.</i>
27	<ul style="list-style-type: none"> • <i>Request a copy of the Towing Fees and Access Notice California Consumer</i>
28	<i>Bill of Rights for Towed Vehicles.</i>
29	<ul style="list-style-type: none"> • <i>Pay by cash or valid bank credit card.</i>
30	<ul style="list-style-type: none"> • <i>Inspect your vehicle or have your insurance carrier inspect your vehicle at</i>
31	<i>the storage facility during normal business hours.</i>
32	<i>You have the right to have the vehicle released to you upon (1) payment of all</i>
33	<i>towing and storage-related fees, (2) presentation of a valid photo identification,</i>
34	<i>and (3) presentation of reliable documentation showing that you are the owner</i>
35	<i>of the vehicle or that the owner has authorized you to take possession of the</i>
36	<i>vehicle.</i>
37	<i>Prior to your vehicle being repaired:</i>
38	<ul style="list-style-type: none"> • <i>You have the right to choose the repair facility and to have no repairs made</i>
39	<i>to your vehicle unless you authorize them in writing.</i>

1	• Any authorization you sign for towing and any authorization you sign for
2	repair must be on separate forms.
3	
4	Prior to paying any towing and storage-related fees you have the right to:
5	
6	• Receive a clear and itemized invoice of actual charges.
7	• Receive your personal property, at no charge, during normal business hours.
8	• Retrieve your vehicle during the first 72 hours of storage and not pay a lien
9	fee.
10	• Request a copy of the California Consumer Bill of Rights for Towed
11	Vehicles.
12	• Pay by cash or credit card.
13	• Have you or your insurance carrier inspect your vehicle at the storage facility
14	during normal business hours.
15	
16	You have the right to have the vehicle released to you upon (1) payment of all
17	towing and storage-related fees, (2) presentation of a valid photo identification,
18	and (3) presentation of reliable documentation showing that you are the owner
19	of the vehicle or that the owner has authorized you to take possession of the
20	vehicle.
21	
22	Prior to your vehicle being repaired:
23	
24	• You have the right to choose the repair facility and to have no repairs made
25	to your vehicle unless you authorize them in writing.
26	• Any authorization you sign for towing and any authorization you sign for
27	repair must be on separate forms.
28	
29	<u>What is the towing company required to do prior to towing your vehicle?</u>
30	
31	Prior to towing your vehicle, the towing service must do all of the following:
32	• Have a Motor Carrier Permit (issued by DMV) and display their Carrier
33	Identification Number (issued by CHP) on their tow truck.
34	• Have insurance as required by the California Vehicle Code.
35	• Have “On-Hook” or “Cargo” insurance that covers your vehicle while in
36	transit as required by the California Vehicle Code.
37	• Have posted in the office area of the storage facility, in plain view to the
38	public, its towing and storage-related fees.
39	

1 • Have posted in the office area of the storage facility, in plain view to the
2 public, the California Consumer Bill of Rights for Towed Vehicles and have
3 copies easily available to the public.

4 • A signed authorization for services containing the date and time of the tow;
5 location from which the vehicle will be towed; the location where the vehicle
6 will be towed or stored; the vehicle operator's or vehicle owner's name and
7 address (if obtainable); the odometer reading (if available); and the name,
8 address, and telephone number of the towing company and the storage facility
9 if different from the towing company.

10
11 **What if I do not pay the towing and storage-related fees or abandon my**
12 **vehicle at the towing company?**

13
14 The towing company will hold a public auction to sell your vehicle and any
15 Pursuant to Sections 3068.1 to 3074, inclusive, of the Civil Code, a towing
16 company may sell your vehicle and any moneys received will be applied to
17 towing and storage-related fees that have accumulated against your vehicle.
18

19 You are responsible for paying the towing company any outstanding balance
20 due on any of these fees once the auction sale is complete.
21

22
23 (e) "Itemized invoice," as used in this section, means a written
24 document that ~~substantially contains the following information:~~
25 *contains the following information and may document that*
26 *substantially complies with this subdivision shall be deemed an*
27 *"itemized invoice" for purposes of this section:*

28 (1) The name, address, telephone number, and carrier
29 identification number as required by subdivision (a) of Section
30 34507.5 of the person or towing company that is charging for
31 towing and storage.

32 (2) If ascertainable, the registered owner or operator's name,
33 address, and telephone number.

34 (3) The date service was initiated.

35 (4) The specific location of the vehicle at the time service was
36 initiated, including either the exact address or nearest intersecting
37 roadways.

38 (5) A vehicle description that includes, if ascertainable, the
39 vehicle year, make, model, odometer reading, license plate number,

1 or if a license plate number is unavailable, the vehicle identification
2 number (VIN).

3 (6) The service dispatch time, the service arrival time of the
4 vehicle, and the service completion time.

5 (7) A clear, itemized, and detailed explanation of any additional
6 services that caused the total towing-related service time to exceed
7 one hour between service dispatch time and service completion
8 time.

9 (8) The hourly rate or per item rate used to calculate the total
10 towing and recovery-related fees. These fees shall be listed as
11 separate line items.

12 (9) If subject to storage fees, the daily storage rate and the total
13 number of days stored. The storage fees shall be listed as a separate
14 line item.

15 ~~(10) If subject to an after-hours fee, gate fee, or other similar~~
16 ~~fee, the date and time the vehicle was released. An after-hours fee,~~
17 ~~gate fee, or other similar fee shall be listed as a separate line item.~~

18 ~~(11) A distinct and separate notice, contained within a bordered~~
19 ~~text box, printed in 10-point type, stating: "Upon request, you are~~
20 ~~entitled to receive a copy of the California Consumer Bill of Rights~~
21 ~~for Towed Vehicles."~~

22 ~~(12) A description of the method of towing.~~

23 *(10) If subject to a gate fee, the date and time the vehicle was*
24 *either accessed, for the purposes of returning personal property,*
25 *or was released after normal business hours. Normal business*
26 *hours are Monday through Friday from 8:00 a.m. to 5:00 p.m.,*
27 *inclusive, except state holidays. A gate fee shall be listed as a*
28 *separate line item.*

29 *(11) A distinct notice, contained within a bordered text box,*
30 *printed in 10-point type, stating: "Upon request, you are entitled*
31 *to receive a copy of the Towing Fees and Access Notice."*

32 *(12) A description of the method of towing.*

33 *(13) If the tow was not requested by the vehicle's owner or*
34 *driver, the identity of the person or governmental agency that*
35 *directed the tow. This paragraph shall not apply to information*
36 *otherwise required to be redacted under Section 22658.*

37 *(14) A clear, itemized, and detailed explanation of any*
38 *additional services or fees.*

39 *(f) A person who violates this section is civilly liable to the*
40 *person tendering payment for towing and storage charges for up*

1 *to two times the amount charged. For any action brought under*
2 *this section, liability shall not exceed five hundred dollars (\$500).*

3 *(g) This section shall not apply to the towing or storage of a*
4 *repossessed vehicle by any person subject to, or exempt from, the*
5 *Collateral Recovery Act (Chapter 11 (commencing with Section*
6 *7500) of Division 3 of the Business and Professions Code).*

7 *(h) This section does not relieve a person from the obligation*
8 *to comply with the provision of any other law.*

9 ~~SEC. 2.~~

10 SEC. 3. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.